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## **Sex offender laws in the United States: smart policy or disproportionate sanctions?**

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In the 1990s, the United States began enacting a series of laws to monitor and supervise sex offenders living in the community. These evolved to include Internet registries of sex offenders, sex offender residence restrictions, GPS monitoring, and even civil commitment of sex offenders at the conclusion of their criminal sentences. Though other countries have enacted legislation to monitor sex offenders, none have implemented laws impinging on the civil liberties of offenders to the extent of those in the United States. This article examines the basis of the US laws and their challenges, provides an overview of their efficacy, and compares the US approach to those of other countries.

**Keywords:** sex offenders; sex offender laws; residency restrictions; civil commitment of sex offenders; civil liberties of sex offenders

### **Introduction**

In the 1990s, the United States began enacting a series of laws to monitor and supervise sex offenders living in the community. These include registration and community notification laws, residence restrictions, Global Positioning System (GPS) tracking, community supervision for life, and civil commitment of sex offenders at the end of their criminal sentences. The impetus for enacting these laws was nearly always a highly publicized kidnapping, rape, and/or murder of a child by a stranger.

The United States is not the only country to respond emotionally to high-profile crimes. In the United Kingdom, for example, Sarah's Law proposed to notify the community about known sex offenders after the kidnapping, rape, and murder of 8-year-old Sarah Payne. Despite public pressure to do so, the United Kingdom did not enact such sweeping legislation. Though some countries, such as Australia, allow for the preventive detention of high-risk sex offenders, the United States differs from other countries in the nature and scope of sex offender sanctions in regard to the restrictions on their liberties and the access given to the public about them. This article examines the basis of the US laws and their challenges, provides an overview of their efficacy, and compares the US approach to those of other countries.

### **Sex offender laws in the United States**

Laws regulating the behavior of sex offenders are not a new phenomenon in the United States. For example, a California law allowed authorities to track the whereabouts of sex offenders beginning in 1947. However, since the 1990s there has been a proliferation of

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policies that increase sanctions for sex offenders in the United States. This coincided with a focus on crime control generally in the United States in response to the increasing crime rates of the 1980s. The 1990s was witness to substantial crime drops across the country, particularly in large cities such as New York, which were attributed to factors such as economic growth, enhanced policing practices, and prison expansion (Arvanites & Defina, 2006; Blumstein & Wallman, 2005; Raphael & Winter-Ebmer, 2001; Rosenfeld & Fornango, 2007; Zimring, 2006). Yet while certain offenders, such as drug offenders, were subject to increased criminal sanctions, sex offenders became subject to comprehensive supervision and incapacitation policies as well. There was an innate difference between sex offenders and other types of offenders, and types of laws governing their behavior have continuously increased for the last two decades.

Many of the sex offender laws (e.g., Megan's Law) are "memorial laws," named after children who were kidnapped, sexually assaulted, and/or killed by strangers. These emotionally charged crimes have led to a body of legislation that leave sex offenders with few rights, little access to services, and limited options of where to live and work. The first comprehensive, modern-day policy regulating the behavior of sex offenders was the Community Protection Act (CPA) of 1990. Enacted in Washington State, the CPA contained 14 provisions for increasing sanctions and regulatory monitoring of sex offenders. Two heinous cases prompted this legislation, both involving recidivist child sexual abusers who violently sexually assaulted young male victims upon their release from prison. Though corrections officials deemed both offenders, Earl Shriner and Wesley Alan Dodd, to be at a high risk to reoffend, there was nothing they could do to keep them in prison or even notify the communities they were living in about their offense history. The CPA was designed to give the state more discretion about what to do with sex offenders like Dodd and Shriner, who posed a high risk to the community.

The CPA is state legislation, but the federal government has enacted similar laws. The first significant federal law to require registration of sex offenders was the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (1994) (hereafter the Jacob Wetterling Act). It is named after Jacob Wetterling who, at age 11, was kidnapped while riding his bike home from a convenience store (Jacob Wetterling Resource Center, 2008). Despite the efforts of his family and the surrounding community, Jacob has not been found and his abductor was never identified (Terry & Ackerman, 2009). With the support of Jacob's mother Patty Wetterling, Congress passed the Jacob Wetterling Act, part of the Federal Violent Crime Control and Law Enforcement Act of 1994, in Jacob's honor (Wright, 2009). The Jacob Wetterling Act required states to create sex offender "registries" of sexual offenders or forfeit 10% of federal funds from the Omnibus Crime Control and Safe Streets Act of 1968 (Terry & Ackerman, 2009).

Though the Jacob Wetterling Act required sex offenders to register their whereabouts with the police or other agencies, it did not provide that information to community members about those offenders. It was only with Megan's Law, enacted on a federal level in 1996, that community notification of sex offenders began. Megan's Law is named after 7-year-old Megan Kanka, who was killed by a recidivist sex offender living across the street from her in Hamilton Township, New Jersey. Megan's parents claimed that sex offender registries were not sufficient at protecting the community from known sex offenders, and that parents should know if sex offenders are living in their neighborhood so they can protect their children. They said that had they known a sex offender was living across the street from them, Megan would still be alive today (Terry & Furlong, 2008). All states enacted registration and community notification laws (RCNL) by the end of 1997.

The purpose of RCNL is to protect the community by publicizing information about sex offenders who may be at risk to reoffend. Each state was empowered to create its own guidelines for implementation, though most follow the same general process. Once convicted or released from jail or prison, state agencies assess the risk level of the offenders to determine whether they are high (tier 3), moderate (tier 2), or low risk (tier 1). Offenders are required to register their living and work addresses with the police for a period of time, dependent upon the jurisdiction and risk level of the offender. They also must provide the agency with a photograph, fingerprints, name, home address, place of employment or school, and in some states a DNA sample. Under Megan's Law, most jurisdictions would notify the community about high-risk sex offenders.

Despite these similarities, state guidelines on RCNL vary in regard to who had to register, length of time on the registry, risk assessment process, and other such factors. Thus, an offender could ostensibly be assessed as low or moderate risk in one state and high risk in another state. Because of this variation, and to provide an accessible database of all offenders, additional legislation was passed in an attempt to collect registration information at the national level. The Pam Lychner Sex Offender Tracking and Identification Act (1996) established a National Sex Offender Registry (NSOR), managed by the FBI. It was named after Pam Lychner, a real estate agent in Houston, Texas, who was nearly killed by a client with a history of violence. Despite the good intentions, the national database is limited in its efficacy, particularly since the information is derived from state databases (Levenson & D'Amora, 2007; Terry & Ackerman, 2009).

Other federal legislation that regulates the behavior of sex offenders includes the Protection of Children from Sexual Predators Act (1998), Campus Sex Crimes Prevention Act (2000), and the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today (PROTECT) Act (2003). The purpose of these acts is to specify and expand the offenses and penalties for sexual offending behaviors and/or to expand the registration requirements. Both the Protection of Children From Sexual Predators Act and the PROTECT Act focus on reducing the sexual exploitation of children, particularly in regard to abduction and trafficking. The PROTECT Act also enhances methods of investigation for sexual abuse and trafficking cases, reduces the chances of pretrial release, and enhances sanctions for offenders.

The most comprehensive legislation to be enacted regarding sex offenders in the United States is the Adam Walsh Child Protection and Safety Act (2006) (AWA). The AWA is named after Adam Walsh who, at age six, was abducted from a shopping mall and killed. The purpose of the AWA is to provide uniform guidelines on the supervision, management and punishment of sex offenders nationally. It sets national standards for registration and notification, civil commitment, child pornography prevention, and Internet safety; makes failure to register a deportable offense for immigrants; and establishes grants to empirically assess the legislation (Terry, 2013).

One component of the AWA, the Sex Offender Registration and Notification Act (SORNA), provides national standards to all states for sex offender registration and notification. The AWA required that all states enact RCNL statutes in compliance with SORNA guidelines by July 2009; however, very few states were in compliance by that time and the majority of states are still not compliant today. Arguments against implementing the AWA are both philosophical and resource-based; it expands the RCNL requirements to include additional offenses and offenders (including juveniles over the age of 14), enhances sanctions for failure to register, increases supervision, extends the time in which offenders would be subject to these requirements, and mandates the use of an offense-based (rather than offender-based) risk assessment

process (Harris & Lobanov-Rostovsky, 2010). Together, these requirements lead to an untenable increase in resources for sex offenders in each state, and many experts dispute the benefits of the requirements (Baron-Evans, 2008; Bowater, 2008; Janus & Prentky, 2008; Wright, 2009).

RCNL is not the only policy enacted to sanction, monitor, or control sexual offenders; however, because it is based on federal laws it is more consistent and uniform across the country. The other most common forms of supervision and control in the community include residence restrictions and GPS monitoring (Vitiello, 2008). Residence restrictions limit the places where sex offenders can live and work, with the goal of increasing public safety by limiting sex offenders' access to the places "where children congregate." The policies are based upon the premise that geographical proximity to offense opportunities increases the likelihood of offending (Terry & Ackerman, 2009). Residence restrictions can be implemented at the state or local levels (Levenson, 2009), and typically bar offenders from living within a 1000- to 2500-foot distance from schools, day care centers, parks, playgrounds, or other places commonly populated by children (Nieto & Jung, 2006).

Though sex offenders have challenged the constitutionality of residence restrictions, courts have deemed them constitutional. Iowa, one of the first states to enact strict residence restrictions that prohibited sex offenders from living within 2000 feet from where children congregate, was the first to have a case reach the state Supreme Court. The regulations were ultimately upheld by the Eighth Circuit Court of Appeals (*Doe v. Miller*, 405 F.3d 700 (8th Cir. 2005)), which reversed the decision of the lower court by saying that residence restrictions are not, on their face, unconstitutional. The number of states with residence restrictions doubled in the two years after this case, with some states enacting residence restrictions because of the fear that sex offenders would converge on their states if they did not enact such laws (Levenson, 2009).

Another common method for monitoring sex offenders in the United States is through GPS surveillance. Offenders wear an electronic bracelet while they are on probation, parole, house arrest, or, in some states, as part of their registration requirements. This allows a supervising agency to monitor the offender's locations through active either passive GPS systems. Active supervision tracks and monitors offenders' movements throughout the day, while passive supervision allows the offenders to upload information from their electronic bracelets at the end of the day. More than half of the states now use GPS tracking of sex offenders, and six states currently require lifetime supervision (Colorado, Florida, Missouri, Ohio, Oklahoma, and Wisconsin) (International Association of Chiefs of Police, 2008). The number of states using GPS is likely to increase as the AWA supports pilot programs for states to implement this legislation.

In addition to community-based supervision policies, several states have also enacted legislation allowing for the incapacitation of sex offenders at the completion of their criminal sentences if they are assessed as having a mental abnormality or personality disorder and are dangerous. The goal of civil commitment, also called Sexually Violent Predator (SVP) legislation, is to incapacitate recidivist sexual offenders who are "more likely than not to reoffend" until they are rehabilitated (Seling, 2000). SVP legislation is controversial in terms of its aim, effectiveness, and constitutionality, and has been criticized on both legal and scientific grounds (Elwood, 2009). It assumes a relationship among mental disorder, risk, and sexual violence, even though some scholars argue that the medicalization of sexually deviant behavior is not grounded in "empirically demonstrated empiricism or articulated legal standard" (Janus, 1997, p. 350).

Civil commitment statutes vary by state. In most, however, a sex offender can be designated an SVP if he is charged with a sexually violent offense, suffers from a mental abnormality or personality disorder, and is likely to engage in future acts of sexual violence as a result of the mental abnormality or personality disorder. The goal of SVP legislation is to target “a small but extremely dangerous group of SVPs who do not have a mental disease or defect that renders them appropriate for involuntary treatment” (Kansas SVPA §59-29a). SVPs are most commonly diagnosed with paraphilias, including pedophilia and paraphilia not otherwise specified (NOS) (Levenson & Morin, 2006), and personality disorders (Elwood, 2009; Elwood, Doren, & Thornton, 2010). Once designated an SVP, the sex offender is detained in a secure facility until “rehabilitated.”

Though SVP legislation is administered on a state level, the AWA established federal grants for the development of civil commitment programs. Called the Jimmy Ryce State Civil Commitment Program for Sexually Dangerous Persons, this provides guidelines for the civil commitment process, including a standardized definition of an SVP, the institution of proceeding, the psychiatric examination, the hearing, the determination and disposition, and discharge procedures. The AWA broadened the criteria for commitment, whereby offenders may now be civilly committed if they have “deemed by the State to be at high risk for recommitting any sexual offense against a minor” (AWA, Sec. 301(c)(3)(A)(ii)).

Those committed under SVP statutes have challenged the laws on several grounds, including ex post facto application, double jeopardy, due process, equal application, vagueness of the statute, and definition of an SVP. The statute itself has been challenged, as well as its application to individuals. *Kansas v. Hendricks*, 521 US 346 (1997) was the first case to reach the US Supreme Court, at which time the Court upheld Hendricks’s civil commitment and declared the Kansas SVP Act constitutional on all grounds. The Court supported the former state court decisions, stating that the SVP Act is a civil rather than a criminal statute. As such, it does not violate double jeopardy clauses by adding additional punishment because the purpose of civil commitment is neither retribution nor deterrence.

### **Sex offender policies outside the United States**

No other countries have implemented sex offender legislation as comprehensive as that of the United States. Sex offender registration is the most common type of legislation that has been implemented elsewhere, primarily in English-speaking western countries. At present, however, the only country other than the United States that allows the public to access the registry is South Korea, with Singapore likely to implement similar legislation soon (Vess, Day, Powell, & Graffam, 2013). Other countries that require registration, but do not allow for public notification, include Australia, Canada, Ireland, the United Kingdom, France, and Japan (Newburn, 2011). Countries in Africa, Latin America, Eastern Europe, and the Middle East have not yet implemented such policies that single out sex offenders. Perhaps most surprising is the lack sex offender policies in Southeast Asia, particularly in countries with high rates of child prostitution and pornography. Additionally, sex offenders registered in the United States can travel to countries such as Thailand and the Philippines on a tourist visa, and these are frequent destinations for child sex tourism (Government Accountability Office, 2013). Most of the countries that do have such laws, particularly in Western Europe, have experienced high-profile cases of child abuse, kidnapping, and murder. However, unlike in the United States these countries have resisted the move toward populist punitiveness (Petrunik & Deutschmann, 2008).

Legislation regarding sex offenders in Canada and Australia is perhaps most similar to laws in the United States since both have registration schemes and also laws regarding serious sexual predators. Canada maintains a national sex offender registry (NSOR), which was implemented as part of the Sex Offender Information Registration Act (SOIRA). In addition to the national registry, the province of Ontario maintains its own sex offender registry. The national database contains identifying information about offenders and their whereabouts, and can be accessed by police agencies to assist in investigations of sexual crimes. The public does not have access to the registry despite public outcries for access to this list. Canada also prohibits access of American sex offenders across the border under Section 36 of the Immigration and Refugee Protection Act (IRPA).

Since 1997, high-risk sex offenders in Canada can be designated as Long-Term Offenders (LTO). This designation allows for federal supervision of individuals who have been convicted of a serious personal injury offense and are likely to reoffend. Offenders with this designation can be supervised by the Correctional Service of Canada for 10 years after release from prison. The assessment process to be designated an LTO is similar to that of the SVP assessment process, conducted by court-appointed specialists using actuarial risk assessment tools. However, the LTO is supervised in the community rather than committed to a secure facility.

The Australian National Child Offender Register (ANCOR) is an Internet-based registry (CrimTrac) that allows police to monitor convicted child sexual abusers who are living in the community. Each state or territory maintains its own registry. Depending on their risk level, the sex offenders are monitored for a period of 8 years, 15 years, or life. Australia does allow for the registration of juveniles for a limited period of time. The public has made calls to publicize the registry, with petitions and even a Facebook page. However, the Minister for Justice & Customs in Australia has stated that such information should not be released to the public because in other countries public disclosure has led to vigilante attacks against offenders and other problems.

Australia does allow for the preventive detention of sex offenders in Queensland through the Dangerous Prisoners (Sex Offenders) Act (2003), which was upheld by the Australian High Court in *Attorney-General (Qld) v. Fardon* (2004). This allows for sex offenders to be detained indefinitely if they are assessed as having a high risk of recidivism (Mercado & Ogloff, 2007). Like SVP legislation in the United States, the goal of this legislation is both community protection and continued treatment for the offenders. The Court may order an assessment of any incarcerated sex offender deemed to be a danger to the community. If it is determined that the offender is at high risk to commit another sexual offense if released, the offender can be detained indefinitely at the end of his criminal sentence (Mercado & Ogloff, 2007). Unlike the SVP laws in the United States, however, the Dangerous Prisoners Act is a criminal, not civil law.

In the United Kingdom, sex offender registration was implemented under the Sex Offender Act of 1997. The registration guidelines in the United Kingdom are similar to those in the United States; however, the United Kingdom does not allow for community notification despite public calls for such a system. Specifically, the public sought for the government to implement “Sarah’s Law,” named for Sarah Payne who was kidnapped, sexually abused, and murdered by a recidivist offender in 2000. After her disappearance, tabloid newspaper *News of the World* spearheaded a campaign to “name and shame” all known pedophiles. However, this effort backfired when vigilantes began assaulting the offenders – and innocent men who looked like them – whose photos appeared in the newspaper. Though the government in the United Kingdom would not implement

notification policies, they did enhance registration requirements for offenders in 2003 under the Violent and Sex Offender Register (ViSOR). This national database is part of the Sex Offender Act of 2003, which, among other things, allows for the community to know how many offenders are registered there. It also requires individuals to register who are assessed as being at risk to reoffend, even if they do not currently have a conviction.

In Ireland, the 2001 Sexual Offenders Act requires that sex offenders register with the police for 5, 7, or 10 years or indefinitely, depending on the severity of their offense. The public does not have access to the registry, which is maintained by the Garda Síochána. More so than in most other countries, Ireland individualizes its post-conviction supervision of sex offenders and tailors the offender's release plan to their specific needs.

France, Japan, and South Korea also have sex offender registries, though little has been written about them in English. The French registry, which was implemented in 2005, is a national database maintained by the Ministry of Justice and is called *Fichier judiciaire automatisé des auteurs d'infractions sexuelles* (FIJAIS). The purpose of FIJAIS is to help the police identify and locate recidivist sexual offenders when a crime has been committed, and FIJAIS is not accessible to the public. In Japan, the registration of sex offenders began in the Osaka prefecture in October 2012. The purpose of the registry is to protect children from recidivist offenders, but also support the offender's reintegration into society. Unlike other non-US countries with registries, South Korea does maintain a registry and provide information about offenders to the public. The Ministry of Justice maintains a national sex offender database, while the Ministry of Gender Equality and Family disperses information to the public. The sanctions and supervision of sex offenders have increased in South Korea as the result of two high-profile cases of sexual assault, one of which involved the violent sexual attack of a 7-year-old girl in 2008. The new laws, with over 150 revisions to existing sex offender sanctions, went into effect in June 2013 (Woo, 2013).

Because most countries do not maintain sex offender registries, and those that do operate independently, US Representative Chris Smith of New Jersey introduced an international Megan's Law bill in March 2009 (Guzder, 2009). This bill aimed to reduce the commercial sexual exploitation of children internationally (Newburn, 2011). The bill (HR 5138: 111th: International Megan's Law of 2010) was passed in 2010 but later died, and was reintroduced in 2011 (HR 3253(112<sup>th</sup>)) where it died again. Though the goals of the bill were admirable, there were several obstacles to enacting it.

The stated aim of the International Megan's Law bill was

To protect children from sexual exploitation by mandating reporting requirements for convicted sex traffickers and other registered sex offenders against minors intending to engage in international travel, providing advance notice of intended travel by high interest registered sex offenders outside the United States to the government of the country of destination, requesting foreign governments to notify the United States when a known child sex offender is seeking to enter the United States, and for other purposes.

Several human rights organizations and nongovernmental organizations (NGOs) supported the bill, saying that it is a step in the right direction and that it could help prevent crimes of registered US sex offenders abroad (Guzder, 2009). Additionally, polls show that Members of the European Parliament (MEP) overwhelmingly support a more expansive registration system. After the disappearance of 4-year-old Madeleine McCann in Portugal, MEPs stated that they would support a European-wide registry for sex offenders, uniform tracking of sex offenders across Europe, the introduction of a common child-



abduction policy, the extension of England's Child Rescue Alert system across Europe, and consistent treatment of sex offenders across Europe (MEPs want EU Sex Offender List, 2007). Practically, however, the implementation of such legislation has proven problematic.

Arguments against an international registry lie on both moral and process bases. The American Civil Liberties Union has argued against such a law on the grounds that it imposes additional restrictions on those who have already completed their sentences. Additionally, they note the difficulty in maintaining an accurate database and raise concerns about individuals who may mistakenly be included. Scholars have also raised concerns with an international Megan's Law. Newburn (2011, p. 567) offered five critical issues with this law, which she said is an attempt by the United States to unilaterally fix a global problem. Her primary criticisms of the law are that: (1) it is based on the flawed US RCNL system; (2) it would severely limit the privacy of those offenders on the international list, releasing a substantial amount of information about offenders to a variety of entities; (3) such a list would require cooperation from other countries, many of which have different laws and norms; (4) it may lead to increased vigilantism against offenders on the list; and (5) such a list would inevitably include some inaccurate information, which could be harmful.

The United States is not the only country to have proposed an international Megan's Law registry for sex offenders. The European Union (EU) has also proposed systems for its member countries to share pertinent information about known sex offenders with each other. One proposal was for a central European registry, which agencies could check to see whether potential employees were registered sex offenders. Although the MEPs support the creation of such a registry, it has not been implemented because ultimately countries within the EU did not believe it was appropriate to disseminate individual criminal history information this widely (Newburn, 2011). Instead of implementing an international registry, the Parliamentary Assembly of the Council of Europe encouraged countries within the EU to create their own comprehensive measures toward sex offender management and cooperate with member states on information-sharing (Newburn, 2011). Additionally, the EU did enact a Framework Decision in 2009 that would allow for member states to exchange information about offenders who were prohibited from working with children. This Decision allows for member states to access the criminal record of sexual offenders who are disqualified from working with children in another member state (Council Framework Decision 2009/315/JHA, Section 12). This cooperation among countries seems to provide an appropriate level of oversight of sex offenders while limiting and regulating the dissemination of dissemination of personal information.

### **Effectiveness of sex offender sanctions in the community**

The stated goal of sex offender legislation in the United States is to protect the public from high-risk sex offenders. However, it is difficult to define and measure the efficacy of such policies. Even if they do show modest benefits, the policies often have collateral consequences for the offenders and their families.

Most studies that have evaluated RCNL have defined efficacy as the reduction in sexual offending, often by measuring arrest or conviction rates. Of the approximately one dozen methodologically sound studies that have evaluated the efficacy of RCNL based on recidivism rates, few showed any significant decrease in sexual offending as a result of the policies (Kernsmith, Comartin, Craun, & Kernsmith, 2009; Letourneau, Levenson, Bandyopadhyay, Armstrong, & Sinha, 2010). Five out of the six group-comparison

studies found no significant support that RCNL reduced recidivism. Four studies examined changes in crime rates over time, but findings on efficacy were inconclusive; one study found a positive effect on recidivism, one found a negative effect, and the last two found no clear effect on recidivism. Additionally, rates of sexual offending began decreasing prior to the implementation of RCNL in nearly every state, so any reduction in offending rates post-implementation may not be attributable to the policies. Studies have also found no significant differences between the recidivism rates of offenders who registered and those who failed to register. In most cases, this includes both sexual recidivism and general recidivism rates (Levenson, Letourneau, Armstrong, & Zgoba, 2010), though at least one study showed higher rates of general recidivism from those who failed to register (Levenson, Letourneau, Armstrong, & Zgoba, 2009).

Several studies have evaluated arrest, conviction, and/or recidivism rates of offenders before and after the implementation of RCNL in specific states. In New Jersey, where Megan's Law was implemented in 1994, Zgoba, Witt, Dalessandro, and Veysey (2008) evaluated 550 sex offenders released from prison or a treatment center between 1990 and 2000. They found no significant differences in sexual recidivism between the groups, nor did they find any effect of the time to first rearrest or type or number of offenses committed (Zgoba, Veysey, & Dalessandro, 2010). Similarly, a study by Sandler, Freeman, and Socia (2008) examined differences in arrest rates for sexual offenders in New York before and after the enactment of RCNL in 1995. They evaluated the arrest rates between 1986 and 2006 and found no support for the efficacy of RCNL. Importantly, they evaluated arrest rates for different types of offenders (those who had adult versus child victims) as well as first time and recidivist offenders. None of the groups showed significant differences in arrest rates after the implementation of the law. This was true in South Carolina as well, where scholars found no evidence that the state's broad RCNL statute decreased recidivism rates and that the offender's registration status was not associated a reduction in recidivism rates or time to detection of recidivism (Letourneau, Levenson, et al., 2010). In their time series analysis of 10 states, Vásquez, Maddan, and Walker (2008) found no significant differences in monthly incidence of rape in six states. However, monthly incidence of rape decreased in three states and increased in one state. Vásquez et al. (2008) noted that this might be explained by a deterrent effect or by increases in reporting in those states. Taking all the studies into account, evidence is inconclusive at best as to whether RCNL has any effect on recidivism, deterrence, or reporting.

Nearly all the studies on the efficacy of RCNL have only addressed the recidivism of adults. However, Letourneau, Bandyopadhyay, Armstrong, and Sinha (2010) evaluated the effects of RCNL on juveniles in South Carolina. Not only did these authors find that RCNL did not deter sexual offending by juveniles, but they also argued that RCNL constitutes further retribution against both adult and juvenile sex offenders. Arguably, however, juveniles may suffer more hardship as a result of these sanctions than adults. Lifetime registration for juveniles would constitute a longer period of registration, and many of the normative behaviors of juveniles (e.g., sexual behavior with another minor) may subject them to such laws. As such, studies should seek to understand more about the effects of RCNL specifically on juveniles.

Some recent studies have evaluated the efficacy of RCNL not through recidivism rates but by other means, such as the protective actions people take as a result of the law (Anderson & Sample, 2008; Bandy, 2011). Because registration is intended to protect the public from sexual violence by increasing awareness of offenders in the community, it follows that the public's safety would be dependent upon self-protective measures taken. Studies, however, show that few community members are aware of, or take precautionary measures against,

known sex offenders in their community (Anderson & Sample, 2008; Bandy, 2011; Beck, Clingmayer, Ramsey, & Travis, 2004; Kernsmith et al., 2009; Letourneau, Levenson, et al., 2010). Predictors of taking some self-protective measures include age, having children, and having been the victim of a sex crime (Kernsmith et al., 2009). The overwhelming number of community members do not take precautionary measures, and this finding is true in communities of varying economic status (Bandy, 2011).

Not only has RCNL in the United States shown limited efficacy, but studies also show that such policies have led to unintended consequences for both the offenders and the public that they intend to protect. Registered sex offenders are significantly more likely to live in neighborhoods with high levels of social disorganization (Mustaine & Tewksbury, 2011; Mustaine, Tewksbury, & Stengel, 2006) and experience high levels of social stigmatization and vigilantism as well as loss of relationships, employment, and housing (Tewksbury, 2005). The social and financial restrictions that are linked to RCNL may actually increase rather than decrease recidivism for offenders, while at the same time increasing the fears of the public (Kernsmith et al., 2009). Registries lead to the inaccurate sense that most sex offenders are strangers to their victims, thereby increasing the public fear of them inappropriately (Kernsmith et al., 2009).

Studies on residence restrictions have shown mixed results. Some studies have found that sex offenders are likely to live within a 100-foot radius to schools, day care centers, and parks (Walker, Golden, & VanHouten, 2001), while other studies found that only one in seven lived near a school, community center, or library and less than a quarter of sex offenders live near a park or playground (Tewksbury & Mustaine, 2006). Even if sex offenders do live near the places where children congregate, the empirical research does not indicate that this close proximity leads to higher levels of offending. Studies in Colorado and Florida showed that child sexual abusers who reoffended did not live any closer to the places children congregate than the child sexual abusers who did not reoffend (Colorado Department of Public Safety, 2004; Zandbergen, Hart, & Levenson, 2010).

Residence restrictions create barriers that make it difficult for sex offenders to reintegrate back into society (Zevitz & Farkas, 2000). Suresh, Mustaine, Tewksbury, and Higgins (2010) found that residence restrictions lead to clusters of offenders living in disadvantaged neighborhoods. Similarly, Mercado, Alvarez, and Levenson (2008) showed that this legislation increases transience and homelessness, and may cause offenders to move further from supportive environments and employment opportunities. Offenders subject to residence restrictions are not only likely to lose their homes and be evicted from their residences but are also more likely to feel socially stigmatized, lose their jobs, have relationships end, and be subject to harassment from the public (Levenson, D'Amora, & Hern, 2007; Levenson & Hern, 2007; Tewksbury, 2005; Zevitz & Farkas, 2000). Residence restrictions make it difficult for offenders to find affordable housing and can also lead to financial stress for the offenders (Levenson & Cotter, 2005). Residence restrictions create a shortage of available housing alternatives for sex offenders, which may force them into isolated areas that lack services, employment opportunities, and/or adequate social support (Minnesota Department of Corrections, 2003). The areas where they can legally reside are often in areas of concentrated economic disadvantage, residential instability, and higher rates of criminal activity (Mustaine & Tewksbury, 2011).

Some jurisdictions have enacted such stringent residence restrictions that sex offenders live together in "colonies." An example of a high-profile sex offender colony was the one formed under the Julia Tuttle Bridge in Miami-Dade County, Florida. After the rape and murder of 7-year-old Jessica Lunsford, several local jurisdictions in Florida passed such severe residence restrictions that there were no residential areas in some cities where sex

offenders could legally live. As a result, more than 100 sex offenders in the Miami-Dade area began living in a camp under the Julia Tuttle Causeway between 2006 and 2010. The offenders lived in tents and had no running water, and the encampment was likened to a “ghetto” and “shantytown” (Terry, 2013). The Causeway became the offender’s formal residence for registration and notification purposes, and representatives from the Department of Corrections would check on them every evening. The encampment was eventually shut down after several lawsuits, and the offenders relocated.

GPS tracking is a less controversial method of supervision that can be useful as one tool for the supervision of sexual offenders in the community. GPS tracking of sex offenders can assist agencies with court processes, violation hearings, case management planning, and investigating failure-to-register cases; serve as a tool to enhance other methods of supervision; monitor offenders’ daily activities; and analyze data location points to identify specific patterns of movement and frequently visited locations, which may warrant further investigation (International Association of Chiefs of Police, 2008, p. 7). There are, however, disadvantages as well. For instance, GPS monitoring cannot detect whether the offenders are accessing inappropriate material on a computer or abusing someone within the home. Additionally, there is limited empirical support for the efficacy of GPS monitoring (Brown, Spencer, & Deakin, 2007; Meloy & Coleman, 2009). Studies in California and Tennessee showed that there were no significant differences in recidivism or technical violations between sex offenders who were monitored with GPS and those who were not (Tennessee Board of Probation and Parole, 2007; Turner et al., 2007). However, Turner et al. (2007) found that GPS tracking did reduce the level of absconding in sex offenders. More research needs to be done to determine for whom this is most effective, for how long, and in what circumstances (Terry, 2013).

## **Conclusion**

Emotionally charged sexual crimes against children have led to calls for enhanced sanctions against sex offenders in many western countries. However, none have implemented policies as punitive, restrictive, and sweeping as the United States. Sex offender registries provide police agencies with an ability to monitor known sex offenders, which could assist in the arrest of recidivist offenders. However, studies have consistently shown that community notification statutes provide little, if any, benefit to reducing recidivism, first-time arrests for sexual crimes, or time between sex crimes. Instead, they may lead to negative collateral consequences for offenders that may result in increases rather than decreases in offending behavior (Vitiello, 2008).

One problem with sex offender laws is that they are often based upon flawed assumptions, particularly that sex offenders pose a high risk of recidivism. These one-size-fits-all policies do not take into account that sex offenders constitute a heterogeneous group of individuals who offend for a variety of reasons (Terry, 2013). Additionally, recidivism rates for sexual offending are lower than for most other types of offending behavior (though official statistic regarding sex offenders should be evaluated with caution due to high levels of underreporting). In their meta-analysis, Hanson and Morton-Bourgon (2005) showed that 13.7% of sex offenders committed a new sexual crime within 5 years. Similarly, a Bureau of Justice Statistics study found that 5.3% of sex offenders committed a new sexual crime over three years (BJS, 2003). Studies also show that most sex offenders who do recidivate commit a nonsexual crime rather than a sexual one (see Lussier, LeBlanc, Proulx, 2005; Miethe, Olson, & Mitchell, 2006; Simon, 2000;

Smallbone & Wortley, 2004; Soothill, Francis, Sanderson, & Ackerley, 2000; Terry, 2013; Zimring, Piquero, & Jennings, 2007).

Policies such as residence restrictions may actually lead to an increase rather than a reduction of recidivism as a result of their collateral consequences. Moving sex offenders to socially and economically disadvantaged areas, away from family and other forms of support, may enhance the likelihood of reoffending. Additionally, the isolation of offenders will make it difficult for them to reintegrate into society and participate in pro-social activities. Without evidence that these policies are effective at reducing recidivism or deterring potential offenders, they should be reexamined to determine whether they are socially, economically, and ethically necessary.

Calls for an international sex offender registry do have some merit, and information sharing among countries globally may lead to a reduction in abuses against child trafficking and abuse by those traveling abroad. However, US lawmakers have suggested implementing policies based upon a flawed US system that is not supported by empirical data. Sound international policy should be evidence-based and must balance the rights of both sex offenders and the community. The European Union Framework Decision provides a conceptual basis for global legislation, yet it is not clear whether that would be effective, or even accepted, internationally. What is clear is that international proposals to monitor sex offenders should not be based on US legislation that has been called misguided (Buntin, 2011), harmful (Baron-Evans, 2008), overbroad (Logan, 2008), and constitutionality questionable (Frumkin, 2008; Visgaitis, 2011; Yung, 2009).

### Notes on contributor

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